

2002

## **Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence**

Lawrence S. Krieger  
*Florida State University College of Law*

Follow this and additional works at: <https://ir.law.fsu.edu/articles>



Part of the [Legal Education Commons](#)

---

### **Recommended Citation**

Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 *J. LEGAL EDUC.* 112 (2002),  
Available at: <https://ir.law.fsu.edu/articles/99>

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Scholarly Publications by an authorized administrator of Scholarship Repository. For more information, please contact [efarrell@law.fsu.edu](mailto:efarrell@law.fsu.edu).

# Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence

Lawrence S. Krieger

*In the day-to-day business of legal education there is remarkably little evidence that we are aware of the unhealthy-unhappy-law-student(lawyer) problem.<sup>1</sup> The core of this article is a description of recent psychological research on the components of happiness and life satisfaction. This research provides an objective framework for understanding the pervasive problems in legal settings and thus can lead to constructive discussion and intervention. I first review empirical and anecdotal evidence of the dark side of law school, the process of denial among faculty, and failing paradigms at the heart of legal education. I then discuss the helpful recent research, and I conclude by suggesting individual and collective faculty approaches based on this research.*

Denial prevents us from coming to terms with what is going on before our very eyes. When we will not let ourselves see or know what is happening, we . . . perpetuate a dishonest system.<sup>2</sup>

There is a wealth of what should be alarming information about the collective distress and unhappiness of our students and the lawyers they become. We appear to be practicing a sort of organizational denial because, given this information, it is remarkable that we are not openly addressing these problems among ourselves at faculty meetings and in committees, and with our students in the context of courses and extracurricular programs. The negative phenomena we ignore are visible to most of us and are confirmed by an essentially unrebuted body of empirical findings.

**Lawrence S. Krieger** <lkrieger@law.fsu.edu> is a clinical professor of law at Florida State University.

I thank our dean and administration for their support of this work, and particularly for the opportunities to conduct the empirical research discussed in this article. I am also very grateful for the thoughts and suggestions of Sally Gertz, Calvin Pang, Mary Crossley, and Paul LeBel.

1. See Patrick J. Schiltz, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 Vand. L. Rev. 871 (1999).
2. Anne W. Schaeff & Diane Fassel, *The Addictive Organization* 62 (San Francisco, 1990).

### **The Dark Side of Law School and the Legal Profession**

The anecdotal and observational basis for concern is obvious. The tales of law student and lawyer depression, overwork, dissatisfaction, alcohol abuse, and general distress are legion, and many of us see, more clearly than we would like, the undoing of our students' collective energy, enthusiasm, and engagement after only a few months of law school. In another article in this issue, Gerry Hess, director of the Institute for Law Teaching at Gonzaga University, describes his experience:

In what now seems like another life, I taught second grade. Most of my second graders walked in the first day with new shoes, fresh crayons, and little backpacks. They were excited about school and eager to learn. . . . My number one goal was for them to leave second grade with those same feelings and expectations. . . . I was able to achieve my primary goal with most of my students.

I now teach law school. My first-year students enter with new books, the latest computers, and big backpacks. Many of them have the same excitement and expectations as my second graders. When I allow myself to think about this, I conclude that my number one goal in my law school classes ought to be the same as for my second graders. But I don't think about this very often because I have failed so miserably at achieving this goal with law students. The law school experience systematically beats those feelings and expectations out of many of them.<sup>3</sup>

Student observations are similar:

Harvard Law School continues to represent, for many people both inside and outside the legal community, the pinnacle of legal education, the breeding ground for the nation's leaders. Given this status, one would expect to find HLS full of confident, enthusiastic, optimistic students who are thoroughly comfortable with themselves and fully prepared upon graduation to take on the world.

In fact, one finds quite the opposite. Far from brimming over with personal and intellectual self-confidence, by the second (2L) year, a surprising number of Harvard Law students come to resemble what one professor has called "the walking wounded": demoralized, dispirited, and profoundly disengaged from the law school experience. What's more, by third year, a disturbingly high number of students come to convey a strong sense of impotence and little inclination or enthusiasm for meeting the world's challenges head on.

[A significant number] become subdued, withdrawn, and uncertain of their own self-worth over the course of their legal education. If Harvard Law School routinely generates students who feel insecure, disengaged, and fatalistic about the world and their future in it, one must look to the institution itself for an explanation.<sup>4</sup>

Though we might wish this sad situation were confined to a few law schools, we know it is not. Such observations are discouragingly common throughout

3. Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. Legal Educ. 75, 75 (2002).

4. Note, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 Harv. L. Rev. 2027, 2027 (1998) [hereinafter *Making Docile Lawyers*].

legal education,<sup>5</sup> and they are confirmed consistently by empirical studies. In studies by teams of psychologists at the University of Arizona, law students were found to arrive with essentially normal psychological markers but to shift quickly to major psychological distress in the first year. These negative changes persisted throughout law school and into the students' early careers, making it clear that the negative findings in law students do not represent a brief "adjustment" problem at the beginning of law school.<sup>6</sup> The incidence of clinically elevated anxiety, hostility, depression, and other symptoms among these students ranged from eight to fifteen times that of the general population.<sup>7</sup> In their analysis of previous studies on anxiety and depression, Matthew Dammeyer and Narina Nunez observe: "Across studies and measurement instruments, law students almost always reported higher levels of anxiety than comparison groups, including medical students. In some cases they report mean scores on anxiety measures that are comparable to psychiatric populations."<sup>8</sup> Depression measures among law students are no better, with studies showing from twenty to forty percent incidence of clinical depression.<sup>9</sup> A three-semester study that Kennon M. Sheldon (a psychologist) and I have just completed confirms these findings.<sup>10</sup> Our law student sample shifted from strong mental health and life satisfaction measurements during initial orientation to distinctly elevated distress and depression (t values up to 7) later in the first year and into the second year. The data reveal additional changes that are very troubling, including an overall dulling of student motivation and goal-directed striving, and shifts away from initially positive motivation and altruistic values toward external, imposed values and motives. All of these changes predict further decreases in future well-being and life satisfaction.

Research on lawyers is equally negative. In a 1990 Johns Hopkins study, practicing lawyers ranked highest in major depressive disorder among 104

5. I base this conclusion on numerous discussions with law teachers and administrators. When I assign the Harvard student essay to my students, more than 90 percent confirm that their law school experience has been very similar. See also Hess, *supra* note 3, at 78 (summarizing structured interviews of law students at seven law schools); B. A. Glesner, Fear and Loathing in the Law Schools, 23 Conn. L. Rev. 627 (1991).
6. Matthew Dammeyer and Narina Nunez note that anxiety and depression in third-year students have consistently been found to be as high as, or higher than, in first-year students. Anxiety and Depression Among Law Students: Current Knowledge and Future Directions, 23 Law & Hum. Behav. 55, 61 (1999).
7. See G. Andrew Benjamin et al., The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers, Am. B. Found. Res. J. 225 (1986), confirming and extending a previous study, Stephen Shanfield & G. Andrew H. Benjamin, Psychiatric Distress in Law Students, 35 J. Legal Educ. 65 (1985).
8. Dammeyer & Nunez, *supra* note 6, at 63. The article presents a rigorous critique of the methodology of previous studies and suggests additional, expanded research. One is struck by the consistency of the results of the numerous studies summarized here. For a more comprehensive review of research on lawyer and law student distress, see Susan Daicoff, Lawyer Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism, 46 Am. U. L. Rev. 1337 (1997).
9. Dammeyer & Nunez, *supra* note 6, at 65; Benjamin et al., *supra* note 7, at 236.
10. Does Legal Education Have Negative Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being (submitted for publication) (manuscript on file with the authors).

occupational groups.<sup>11</sup> Our graduates rank fifth in the incidence of suicide<sup>12</sup> and show from five to fifteen times the normal incidence of clinical psychological distress as well as very high levels of substance abuse.<sup>13</sup> We might like to believe that future lawyers arrive at law school with these predispositions, but research and our own eyes tell us otherwise.

### Individual and Institutional Avoidance

Something distinctly bad is happening to the students in our law schools. Why isn't this a common topic of discussion at our faculty meetings, in our committees, and in our classes? Why are none—or very little—of our resources devoted to trying to understand the sources and then prevent the problems? Certainly many law teachers and deans are aware of the health and distress issues of our students and graduates and are concerned about them. Nonetheless, we maintain the status quo, at times by ignoring the problems outright, and at other times by deflecting concern in ways that avoid any constructive approach to them. Some typical reactions from colleagues, including many who are genuinely concerned about the problems, are the following.

*It's just as bad in med school.* Actually, research demonstrates that it is *not* as bad in medical schools.<sup>14</sup> But even if the assertion were true, it would not mean that we should not address the problem. This is a form of denial—rationalizing or justifying the problem (in this case, relying on its purported commonality) in order to avoid confronting it.

*People come to us that way.* Research indicates that this is also not true (see above), and observations of other teachers and students (such as those quoted earlier in this article) confirm that research.

*It's not my job. I'm not trained for this. It needs more study. It isn't that bad. It's always been that way. It's the nature of the business. That's the way the world is now.* None of these responses provides a rational justification for ignoring serious problems. Such statements generate confusion through deflection and minimization,<sup>15</sup> again reflecting a process of

11. See William Eaton et al., Occupations and the Prevalence of Major Depressive Disorder, 32 J. Occupational Med. 1079, 1085 tbl.3 (1990).
12. Interview with Carol A. Burnett, National Institute for Occupational Safety and Health, in Cincinnati, Ohio (Aug. 11, 1998).
13. See Connie J. A. Beck et al., Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers, 10 J.L. & Health 1, 49–50 (1995). See also Rick B. Allan, Alcoholism, Drug Abuse and Lawyers: Are We Ready to Address the Denial? 31 Creighton L. Rev. 265 (1997); G. Andrew H. Benjamin et al., The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers, 13 Int'l J.L. & Psychiatry 233 (1990); Eric Drogin, Alcoholism in the Legal Profession: Psychological and Legal Perspectives and Interventions, 15 Law & Psychol. Rev. 117 (1991).
14. Dammeyer and Nunez, *supra* note 6, summarize the major published studies comparing medical and law student distress. See also Robert Kellner et al., Distress in Medical and Law Students, 27 Comp. Psychiatry 220 (1986).
15. See Schaef & Fassel, *supra* note 2, at 62; Anne W. Schaef, When Society Becomes an Addict 67 (San Francisco, 1988).

denial which allows us to continue our enterprise without grappling with the unpleasant realities.

The current emphasis in law schools on professionalism and civility offers another example of institutional denial. It is wholly unrealistic to expect that depressed or highly distressed lawyers will exemplify professional behavior, no matter how well they are schooled in their obligations.<sup>16</sup> We have our own professional and moral responsibilities to try to prevent or alleviate the distress of our students, and institutional pronouncements about our overriding service mission confirm that point, whether intentionally or not. Nonetheless, we lecture students on their obligations as good professionals but most often ignore our related obligations.

There are obvious sources of discomfort that encourage our avoidance of these issues. It is inherently unpleasant to reflect on one's darker side; and we may fear that we undermine our own enterprise, or create unwanted anxiety, if we acknowledge openly with our students the significant problems apparently occurring in law schools and awaiting many graduates when they enter practice. Further, we are not clear on the precise causes of the problems, nor do we have ready solutions to offer. It is also true that we are not trained academically for such discussions, and most of us are unaccustomed to dealing with the kind of nonrational, nonanalytical matters such discussions will inevitably entail.<sup>17</sup> We may feel put upon as well. After all, we are basically reproducing the system of legal education which we experienced and for which we had great aptitude as students. And human nature suggests that some of us simply avoid the substantial effort that helpful changes might require—particularly if they come at a cost to our own comfort or convenience. Regardless of individual motives for inertia, the collective result is clear: few faculties address these problems to any greater extent than if the problems did not exist at all.<sup>18</sup>

### **Failing Paradigms**

Beyond the immediate reasons for avoiding the distress problems, the pervasiveness and persistence of the problems and of the institutional denial

16. For a discussion of the connections between health and professionalism, see generally Daicoff, *supra* note 8; Lawrence S. Krieger, What We're Not Telling Law Students—and Lawyers—That They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession from Its Roots, 13 J.L. & Health 1, 35 nn.140–46 (1998).
17. In his recommendations to broaden the law school agenda, Roger C. Cramton describes in more detail some of these inhibitions. Beyond the Ordinary Religion, 37 J. Legal Educ. 509, 512–13 (1987).
18. I posted repeated inquiries to a listserv with more than 200 law teacher subscribers, specifically asking for any experiences of open discussion of these problems in a committee or full faculty meeting. I received a few responses about specific services offered (counseling, orientation meetings, and the like); only one person reported an open faculty discussion of these problems. A look at promotional literature conveys a consistently rosy picture of the law school experience. My teaching assistant reviewed the admissions publications of 20 law schools, half public and half private. Of the hundreds of law students pictured, none showed anything other than happiness and focused attention. The brochures of two schools briefly mentioned the availability of counseling services; one of them also mentioned time/stress management workshops. The others were devoid of any hint of the phenomenon of distress in law school.

around them in American law schools suggest that core attitudes and beliefs at the foundation of our educational culture would be threatened by an open look at what is going wrong. The suspect constructs include:

*The top-ten-percent tenet*—the belief that success in law school is exclusively demonstrated by high grades, appointment to a law review, and similar academic honors. This belief is entirely obvious at most law schools, whether elite or more typical.

*The contingent-worth paradigm*—the corollary sense that personal worth, the opinions of one's teachers and potential employers, and therefore one's happiness and security in life depend on one's place in the hierarchy of academic success. While there are, of course, comparative evaluations and rankings in other educational settings and in our broader society, in many law schools these considerations virtually dominate the collective thinking and become identified with personal worth.

*The American dream*—the belief that what is good in work and in life is defined by financial affluence, influence, recognition, and other external indicia of achievement (and that the dream will be secured by academic success in law school).

*Thinking "like a lawyer"*—defining people (or "parties") primarily according to their legal rights, and trying to understand, prevent, or resolve problems by linear application of legal rules to those rights, usually adopting a zero-sum competitive approach to outcomes. This process requires the closest scrutiny of spoken and written thought to identify any defect that may undermine an adversary's position or create future problems for one's client. Thinking "like a lawyer" is fundamentally negative; it is critical, pessimistic, and depersonalizing. It is a damaging paradigm in law schools because it is usually conveyed, and understood, as a new and superior way of thinking, rather than an important but strictly limited legal tool.

All of these paradigms share a powerfully atomistic worldview and a zero-sum message about life in the law and in law school. For every winner there is a loser, and if anything beyond winning or losing matters, it doesn't matter much. The theme for law students is consistent: you must work very, very hard, and you must excel in the competition for grades and honors, in order to feel good about what you have done, have the respect of your teachers and peers, get a desirable job, and generally be successful. We see these themes dominating the minds of students almost from the instant of their arrival on campus; and as students take on the typically daunting workloads under these competitive pressures, we often see fatigue and anxiety replacing enthusiasm and life satisfaction. All is building toward the day of reckoning, the posting of first-semester grades (and, secondarily, law review selections).<sup>19</sup>

19. See *Making Docile Lawyers*, *supra* note 4, at 2034, describing the excessive anticipation of initial grades at Harvard Law School, and the grades' equally intense impact on students. It is no different at my school or others I am aware of.

Students obviously may be set up for continuing problems by this overriding emphasis on differentiation, contingent worth, and competitive outcomes. The overall impact is isolating and threatening. In addition, those who succeed in the grades race are likely to experience a performance-based boost in their sense of personal worth, confidence, and security. They feel valued by the institutional culture, and they may be driven to reproduce such victories to maintain these feelings and the sense of relief that accompanies them. Those who falter in the competition by receiving less-than-stellar grades often become thoroughly deflated; their sense of confidence, security, and personal worth plummets. Exacerbating the negative effect of all of the competitive paradigms, the exclusive valuing of thinking “like a lawyer” directly discourages students from being themselves. They learn to inhibit the expression or consideration of ideals, values, and personal beliefs, and they lose sight of the potential satisfaction inherent in cooperation and mutually beneficial outcomes. Enthusiasm and the sense of relevance that would result from engaging more of the student’s inborn capacities are simultaneously undermined by this process.

The interplay of these dominant law school constructs ultimately teaches many students to put aside their personal life and health and accept persistent discomfort, angst, isolation, even depression as the cost of becoming a lawyer. This is ominous preparation for professional life, and similar constructs apparently do drive many lawyers, as they vie for status, recognition, and the highest salaries regardless of the toll on their health, happiness, ethics, and professionalism.<sup>20</sup> Three empirical findings related to these law school paradigms are worth noting here. First, among thousands of lawyers surveyed, more than one-third—about fifteen times the incidence in general populations—reported levels of “clinical distress” (indicating the likely need for professional help)<sup>21</sup> in the area of *interpersonal sensitivity*, a measure of self-esteem and security based on one’s need to compare favorably to others.<sup>22</sup> (Given our own acculturation to comparative/competitive law school environments, it may surprise many to learn that the need to compare favorably to others is actually a recognized form of emotional illness!) The Sheldon/Krieger study of law students provides confirmation: one of the largest maladaptive shifts during the first year of law school that we found was an increasing concern for image and appearance.<sup>23</sup> But research also shows that the general distress and depression among law students is not mitigated by high grades,<sup>24</sup> nor is dissatisfaction among lawyers mitigated by high salaries.<sup>25</sup>

20. See Schiltz, *supra* note 1; Krieger, *supra* note 16, at 9; Peter A. Joy, What We Talk About When We Talk About Professionalism: A Review of *Lawyers’ Ideals/Lawyers’ Practices*, 7 Geo. J. Legal Ethics 987, 1007–08 (1994) (book review).

21. See Beck et al., *supra* note 13, at 18.

22. *Id.* at 14; see also Krieger, *supra* note 16, at 13 nn.50–51.

23. Sheldon & Krieger, *supra* note 10.

24. Benjamin et al., *supra* note 7, at 246; Sheldon & Krieger, *supra* note 10.

25. Neither research nor commentary offers any suggestion that lawyers who make more money are more happy; in fact, discussion of distress and dissatisfaction typically centers on the personal toll of the high-paying large-firm practices. Schiltz, *supra* note 1, details this problem



In other words, lawyers are tremendously prone to insecurity and an unhealthy need for status—a likely manifestation of the related law school paradigms around contingent self-esteem and comparative worth—but the top grades and high salaries so much emphasized in law schools and law firms do *not* improve one's likelihood of a happy and satisfying life. In fact, just the opposite may turn out to be the case, as I explain below.

The suspect paradigms are difficult for us to address critically because academic and analytical superiority, law review experience, and the like obviously reflect the collective experience and special abilities of law teachers. And, as I've said, there are many other reasons we might prefer to simply continue with our current beliefs and educational practices. Nonetheless, the dark side of our enterprise is increasingly documented. This is a particularly appropriate time to put aside avoidance and proceed, because there are also fresh research studies that can provide an objective, empirically supported framework for constructive discussion.

### Empirical Insights into the Fundamental Human Needs

Recent research demonstrates that human needs, values, and motivation, and the relationships between them, are all important to understanding well-being and satisfaction. First, as to the human needs, a major cross-cultural study by Ken Sheldon and colleagues provides the latest empirical word on which psychological needs are actually fundamental to a positive life experience. This research is directly relevant to the concerns about life quality among lawyers and law students because *needs* are defined as those experiences which produce well-being, life satisfaction, and a sense of thriving; conversely, a lack of such experiences produces distress, depressed mood, and loss of vitality.<sup>26</sup>

The researchers concluded that the universal psychological needs include self-esteem, relatedness to others, authenticity,<sup>27</sup> competence, and security (as

and thoroughly reviews the research on lawyer dissatisfaction; see also Sol M. Linowitz, *The Betrayed Profession* (New York, 1994). A recent poll of Florida bar members is confirming: four categories of public service/public agency practice had the highest career-satisfaction ratings. The fifth-ranked category, law firm partners/shareholders, reported average earnings almost triple that of the state lawyers who led them in career satisfaction; and several other categories (including managing partners, lawyers with associates, and corporate counsel) with earnings at least double that of the public service lawyers trailed even further in their career-satisfaction ratings. Mark D. Killian, *Lawyers Report Increased Income, Job Satisfaction*, Fla. B. News, July 1, 2001, at 1.

26. See Kennon M. Sheldon et al., What Is Satisfying About Satisfying Events? Testing 10 Candidate Psychological Needs, 80 J. Pers. & Soc. Psychol. 325, 325–27 (2001). Anxiety and depression tend to occur as fundamental needs are ignored. See, e.g., Tim Kasser & Richard M. Ryan, A Dark Side of the American Dream: Correlates of Financial Success as a Central Life Aspiration, 65 J. Pers. & Soc. Psychol. 410 (1993).
27. Sheldon et al., *supra* note 26, at 326. The researchers termed this need *autonomy*. I use instead the term *authenticity*, based on the study design and on conversations with the lead author. Two of the three measurement questions went beyond the normal understanding of “autonomy” to include issues of genuineness. Specifically, subjects were asked whether their choices “expressed my true self” and “were based on my true interests and values.” Specificity is important because this area of needs is particularly significant in our context. Law students run the substantial risk of losing contact with aspects of their authentic selves, such as their conscience and underlying values, as they are trained to emphasize thinking “like a lawyer” and acting as agents for others.

a foundational need underlying the others).<sup>28</sup> Since a great many lawyers and law students are known to experience high levels of depression and emotional distress, the frustration of their fundamental needs suggests itself as a cause; the common observation that students lose self-confidence and self-esteem after beginning law school, and become insecure and isolated, provides confirmation.<sup>29</sup> Security is particularly important as a threshold issue, because insecurity has undermining effects on *all* of the other needs.<sup>30</sup> Before discussing the fundamental needs in the law school context, it will be useful to review the related research on motivation, goals, and values, and their impact on these human needs and on well-being.

### **The Impact of Legal Education on Healthy Motivation, Goals, and Values**

Recent empirical studies demonstrate that one's motivational style and the content of one's goals and values predict positive or negative mental health and well-being. Although most of the summarized studies focus on general populations, the implications for lawyers, law students, and law schools are again striking, and the current Sheldon/Krieger study extends these findings directly to law students. For the purposes of these studies, "motivation" implies the reasons *why* people choose their actions, while "goals" and "values" relate to content—*what* is sought to be accomplished.

#### *Humanistic Theory as Context*

The classic humanistic psychologists, most prominently Abraham Maslow and Carl Rogers, described an individual valuing process underlying behavioral choices. They saw people as naturally striving for their highest level of personal functioning, authenticity, integration, and actualization.<sup>31</sup> Humanistic theory linked the natural striving to be one's best and improve one's society with the experience of satisfaction and well-being; it posited that the source of most psychological distress was the blocking of this movement toward personal and social integration.<sup>32</sup> Actualization or full function would, then, produce highly ethical and prosocial behavior<sup>33</sup>—something particularly relevant for lawyers.

#### *Goals, Motives, and Well-Being:*

##### *The American Dream as a Failed Paradigm for Life Satisfaction*

Many recent studies have found the links between goals, motivation, and well-being that the humanists predicted. With their landmark studies of hu-

28. The needs identified in this recent study overlap considerably with Abraham Maslow's hierarchy of human needs, and the definition of *need* is also very similar. See *Motivation and Personality*, 2d. ed., 39–46 (New York, 1970).

29. This conclusion is confirmed by conversations with numerous law teachers and is often raised in commentaries on law school distress (such as those cited in this article). Ken Sheldon and I are currently conducting research to quantify the impact of law school on the basic needs.

30. See Sheldon et al., *supra* note 26, at 336–37.

31. Maslow, *supra* note 28; Carl Rogers, *On Becoming a Person: A Therapist's View of Psychotherapy* (Boston, 1995).

32. Maslow, *supra* note 28, at 57.

33. *Id.* at 168.

man goals and well-being, “A Dark Side of the American Dream”<sup>34</sup> and “Further Examining the American Dream,”<sup>35</sup> Tim Kasser and Richard Ryan demonstrated that goals such as money, power, and image, which typify the American dream, do not produce life satisfaction. Their studies, the more recent Sheldon study on human needs, and many others<sup>36</sup> indicate instead that pursuit of the “extrinsic” goals which are common in Western culture, and which are embedded particularly deep in the culture of most law schools and law firms, does not produce a good life and in fact can very well undermine it. These studies consistently demonstrate that, to the extent such goals are primary in a person’s life, she will experience decreased life satisfaction compared to people with other primary goals. The Sheldon study is perhaps the most illuminating to date because of its comparison of a wide range of possible experiences. Subjects who identified money, image, or influence as important for life satisfaction consistently experienced the *lowest* well-being in the study.<sup>37</sup> By contrast, persons whose primary goal content was “intrinsic”—toward personal growth, intimacy, and community integration—experienced significantly greater well-being.<sup>38</sup>

As one would expect from the foregoing findings on goal content, research has also found that extrinsic *motivations*—acting for reasons outside of oneself, such as to relieve guilt or anxiety, please others, or gain rewards—predict decreased well-being, sense of meaning, and personal integration. By contrast, intrinsic motivations—working and behaving in ways that are either inherently satisfying or that reflect strongly one’s deepest convictions and beliefs—are correlated with enhanced well-being, increased meaning, and increased personal and social integration.<sup>39</sup>

### *The Interplay of Goals, Motives, and Needs*

In addition to affecting life satisfaction directly, one’s choice of personal goals and motives also affects the satisfaction of the basic needs. Intrinsic motivation and goals maximize one’s opportunity to experience fulfillment of the human needs. For example, doing work one believes is truly important (an intrinsic motivation) will provide experiences of self-esteem and authenticity; working to help others or improve society (an intrinsic value) is likely to support experiences of self-esteem and relatedness to others.<sup>40</sup> Doing work one inherently enjoys (another intrinsic motive) directly provides well-being,

34. Kasser & Ryan, *supra* note 26.

35. Further Examining the American Dream: Differential Correlates of Intrinsic and Extrinsic Goals, 22 *Personality & Soc. Psychol. Bull.* 281 (1996).

36. Approximately 40 relevant studies are reviewed and summarized in Kennon M. Sheldon & Tim Kasser, Goals, Congruence, and Positive Well-Being: New Empirical Support for Humanistic Theories, *J. Hum. Psychol.*, Winter 2001, at 30.

37. Sheldon et al., *supra* note 26, at 337.

38. This research is comprehensively summarized in Sheldon & Kasser, *supra* note 36, at 42–46. For the sake of convenience and brevity, the succeeding footnotes direct the reader to their summary, which of course cites the original studies.

39. *Id.* at 35–47.

40. See *id.* at 42–44.

enthusiasm, and a sense of thriving, and it also enhances the experience of authenticity and self-esteem. By contrast, extrinsic motivation and goal pursuits tend to replace, or distract one from, the pursuit of more satisfying goals and the fulfillment of the fundamental needs. Extrinsic goals and motives are therefore associated with insecurity and directly produce negative life experiences such as dissatisfaction, stress, and irritation.<sup>41</sup>

All of these findings raise clear implications for law schools and the law practice culture. Assuming that the legal “success” paradigm is, indeed, largely defined by grades, external recognition, and money or position, these inherently competitive goals, values, and motives will promote tension and insecurity and will minimize satisfaction and well-being in the lives of many law students and lawyers. At the same time, this cycle of inherently unfulfilling activity supplants the intrinsic drive for growth, actualization, intimacy, and community, thereby exacerbating the negative effects on well-being. Anxiety or depression is likely to manifest because, regardless of one’s level of success within this paradigm, one will not experience internal satisfaction. Sheldon and Kasser summarize many of the relevant research findings as follows:

[W]hen people are focused on goals with intrinsic content (self-acceptance, affiliation, and community feeling) they are more likely to satisfy their higher psychological needs and thus have many of the characteristics of “fully functioning” individuals, including psychological health and strong interpersonal relationships. In contrast, a focus on extrinsic goals (financial success, popularity, appearance) signals a disjunction from one’s true self and a focus on security needs, likely due to non-optimal childhood models and environments. As a result, extrinsically oriented people tend to become “stuck in a vicious cycle” in which they continually experience psychological distress and conflictual interpersonal relationships, not knowing how to escape the cycle.<sup>42</sup>

Beyond “non-optimal childhood models and environments,” an *educational* environment that promotes extrinsic goals and motivation will have a similar effect. This is particularly likely in legal education, which demands of its students a new way of thinking and which typically encourages—either tacitly or explicitly—the rejection of previously held values, preferences for cooperation or mutuality, and other socializing factors.

#### *The Sheldon/Krieger Study*

The longitudinal study of law students that Ken Sheldon and I have completed confirms these conclusions in all respects. We measured values, motivation, and well-being in students just after they entered law school, again toward the end of the first year, and during the following fall semester. The arriving students showed healthy well-being, values, and motives—stronger, in fact, than a large undergraduate sample. Within six months, however, the law students experienced marked decreases in well-being and life satisfaction and marked increases in depression, negative affect, and physical symptoms. Per-

41. *Id.* at 42–43.

42. *Id.* at 46.

haps more revealing, their overall motivation and valuing patterns shifted in undesirable (external/extrinsic) directions, with particular increases in the valuing of image and appearance and decreases in altruism and community orientation.<sup>43</sup> These changes predict continuing decreases in life satisfaction and happiness, and they are fully consistent with the reports of distress, dissatisfaction, and loss of ethics and values among practicing lawyers.

In addition to showing negative effects on the values and motivation of new law students, many of our findings directly refute the idea that the problems of law students and lawyers are the inevitable result of self-selection and personal attributes. The entering students were healthier, happier, and more optimally motivated than the comparison undergraduates. Our conclusion, that the problems arising in law students are largely attributable to the process of legal education, has also been reached by psychologists studying another law school. In their studies, normal markers of mental health in incoming students were followed by rapid development of psychiatric distress that persisted throughout law school.<sup>44</sup>

A consideration of the students who performed best according to the usual law school paradigms—those who earned the highest grades—is of further interest. As I said earlier, these students suffered losses in well-being and life satisfaction to the same extent as the rest of their class. An additional finding is revealing: they immediately and significantly shifted away from service-oriented career preferences and toward lucrative, high-status career choices. When matriculating, this group of students had healthier, more intrinsic goals and values than the other law students (who were already quite intrinsically oriented); nonetheless, the more academically successful group shifted toward the most extrinsic career orientations. It may be that these students, who are typically confronted first with choice campus interviews and job opportunities, began first to compromise their personal values to conform to law school norms for “successful” career tracks.<sup>45</sup> This phenomenon of abandoning career preferences that reflect positive (service/community) values for career choices that provide money and status has been reported at other law schools<sup>46</sup> and may foreshadow the common perception of lawyers as valueless

43. Sheldon & Krieger, *supra* note 10.

44. Benjamin et al., *supra* note 7, at 246; Shanfield & Benjamin, *supra* note 7, at 66, 68.

45. One potentially confounding factor is the high debt load of most law students. Our study explicitly sought to eliminate or minimize this factor by instructing students to assume that their debts would be taken care of by any career choice. The reported shift toward higher-paying positions was nonetheless significant. Firsthand observation of the eroding effects of the law-for-money orientation is described in detail in Schiltz, *supra* note 1. Every law student should read this article. I assign it (and related others) in my courses and programs.

46. Robert Granfield, *Making Elite Lawyers: Visions of Law at Harvard and Beyond* (New York, 1992); Robert V. Stover & Howard S. Erlanger, *Making It and Breaking It: The Fate of Public Interest Commitment During Law School* 17 (Urbana, 1989). Legal education apparently has changed little in this regard in the last several decades. In 1967 Ervin N. Griswold observed:

For some years now I have been concerned about the effect of our legal education on the idealism of our students. I have great faith in our students. They are surely as good, as earnest, as sincere, as their predecessors who have come through the years. They bring to this school a large measure of idealism. Do they leave with less? And if they do, is that something we can view with

and unhappy hired guns. As we have seen, such a compromise is likely to undermine future life satisfaction by decreasing the experience of authenticity, autonomy, self-esteem, and intrinsic motivation, and by displacing intrinsic goals that would have the capacity to produce well-being.

### **The Fate of Law Student Needs**

A major thrust of this article is to encourage law teachers to individually and collectively undertake a review of our attitudes and educational practices, in order to identify those most likely to have a deleterious effect on the basic needs of law students. To begin that consideration, I will raise here a few such attitudes and practices that are common to many law schools.

First, we might investigate our predilection to work students exceptionally hard.<sup>47</sup> Persistently long hours of high-demand work obviously drain personal resources, encourage students to ignore biological needs that are basic to health and life satisfaction, and at the same time displace normal activities needed to fulfill basic psychological needs.<sup>48</sup> As an experienced litigator, I reject the idea that intensely stressing students in this way is useful professional preparation. Rather, it teaches students to accept constant stress and to associate it with a law career. Once habituated to that experience, students are likely to make choices that will perpetuate stress as the reality of their future lives and careers.

In addition, the contingent-worth and top-ten-percent paradigms create continuing tension for many students by generating insecurity about future employment, the constant need to outperform peers and friends, the sense that a student is only as worthwhile as his grades and résumé, and the impression that, regardless of any amount of rhetoric about professionalism and the like, in fact personal character, values, ideals, and intentions are largely irrelevant to the new agenda students have undertaken.<sup>49</sup> One could hardly design purposely a more effective belief system for eroding the self-esteem, relatedness,<sup>50</sup> authenticity, and security of an affected population. And schools that have a mandatory or "strongly suggested" grading curve (particularly those requiring very low grades)—a stranger to virtually all other graduate schools—strengthen this effect by promoting the perception among students that their institutions intentionally pit them against each other in

indifference? If they do, what is the cause? What do we do to them that makes them turn another way?

Intellect and Spirit, 81 Harv. L. Rev. 292, 300 (1967).

47. For a thorough discussion of the appropriateness of stress in the law school environment, see Glesner, *supra* note 5, at 627–41.

48. Maslow's classic motivation theory noted the obvious need to fulfill biological needs (food, rest, shelter) before addressing the psychological needs. Maslow, *supra* note 28, at 38.

49. For a critique of this damaging effect of the narrow law school agenda, see Cramton, *supra* note 17, at 512–13.

50. Isolation is a recognized problem among law students. See Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 Ariz. L. Rev. 667 (1994); Phyllis W. Beck & David Burns, *Anxiety and Depression in Law Students: Cognitive Intervention*, 30 J. Legal Educ. 270, 274 (1979).

order to facilitate numerical differentiation of their contingent worth.<sup>51</sup> Beyond the undermining of basic needs, all of the foregoing pressures contribute to the intense stress experienced by law students—a matter of additional concern because stress is the primary predictor of clinical depression<sup>52</sup> and is thus likely to promote suicidal thinking.

Our traditional teaching methods and our overreliance on objective analysis also promote the undermining of basic needs. The usual classroom atmosphere is one in which students are isolated from each other and the teacher, and encouraged to abandon their preferences, values, and instincts as they are trained to wholeheartedly embrace thinking “like a lawyer.” In their description of an innovative approach to teaching designed to avoid this damaging depersonalization, John Mixon and Robert P. Schuwerk observe:

We intended our approach to be the very antithesis of the traditional law school pseudo-Socratic method of instruction, with its emphasis on “hard” cases and supposedly rigorous and rational cognitive processes at the expense of students’ emotions, feelings, and values. These traditional techniques desensitize students to the critical role of interpersonal skills in all aspects of a professionally proper attorney-client relationship and, for that matter, in all aspects of an ethical law practice. They also set students’ moral compasses adrift on a sea of relativism, in which all positions are viewed as “defensible” or “arguable” and none as “right” or “just,” and they train students who recognize and regret these developments in themselves to put those feelings aside as nothing more than counter-productive relics from their pre-law lives.<sup>53</sup>

Many law teachers share this evaluation of the effects of traditional teaching methods and the beliefs that underlie them.<sup>54</sup> Again, as with the contingent-worth constructs, one can hardly imagine a better system for undermining the sense of self-worth, security, authenticity, and competence among students. Law students get the message, early and often, that what they believe, or believed, at their core, is unimportant—in fact “irrelevant” and inappropriate in the context of legal discourse—and that their traditional ways of thinking and feeling are wholly unequal to the task before them. It would be quite possible (as I will explain) to teach rigorous legal analysis in a manner that supplements rather than supplants a student’s developed values, beliefs, and sense of self—a fact that often leads me to wonder whether we law teachers persist in exclusively valuing thinking “like a lawyer” because of our own adeptness at it or comfort with it.

It is almost too obvious to state that if our operant paradigms, teaching methods, or other practices exert pressures that undermine the physical health, internal values, intrinsic motivation, and/or experience of security,

51. Students often share this perception with me; I find it difficult to refute. Our grading systems may reflect numbers-based admissions processes or law firm recruiting preferences, but does that justify the potential depersonalization and distress of law students? All such questions should be open for considered discussion.

52. Eaton et al., *supra* note 11, at 1086.

53. The Personal Dimension of Professional Responsibility, *Law & Contemp. Probs.*, Summer/Autumn 1995, at 87, 102.

54. This conclusion is based on many discussions with law teachers and feedback at educational conferences.

self-worth, authenticity, competence, and relatedness of our students, we should expect the negative results that studies of law students (and lawyers) consistently demonstrate: major deficits in well-being, life satisfaction, and enthusiasm, and flourishing depression, anxiety, and cynicism.

### **Moving Forward**

As we think through the individual and social implications of declining happiness, psychological health, and social consciousness in our students and the profession, we must become willing to dedicate time and resources to preventing or alleviating those problems. The research described in this article guides us forward with the following questions.

- What might we do to promote the regular experience of authenticity, relatedness, competence, self-esteem, and security in our students?
- How can we support intrinsic motivation in law students—inherently enjoyable or personally meaningful work—while we teach the fundamentals of legal analysis and professional technique?
- How can we promote optimal human values in students (toward personal growth, intimacy, community enhancement, altruism), rather than the desire for money, power, status, and image?

As part of this inquiry, we need to specifically identify our individual and institutional practices that tend to undermine the basic needs and optimal values listed, and try to amend those practices.

Colleagues express discouragement about the possibility of changing our systems or the assumptions that underlie them. This is natural; most institutions are endowed with significant inertia, and new directions can seem intimidating. One direct approach to breaking our collective silence around these issues is to provide clear information, perhaps beginning with the published empirical evidence of law student and lawyer distress. Most teachers and students are practically dumbfounded when they see this information. People rarely dispute the findings, and seeing objective quantification of what most already know, or at least suspect, has a powerful focusing effect. After clarifying the need for attention with this negative, problem-oriented research, it is useful to provide the overview of possible solutions contained in the research on needs and motivation.<sup>55</sup> This research also commands attention, provided that its relevance to the likelihood of future happiness and life satisfaction is made clear. In particular, people need to realize that the American dream and the extrinsic goals for money, power, and status that so strongly pervade legal settings are failed approaches to happiness, whereas old-fashioned wisdom about being true to oneself, helping others, maintaining close relationships, and creating community is, according to current research, true and effective for structuring a positive life experience.

55. I will be happy to send examples of graphics to convey this information.



As a practical foundation for working with students, it is helpful for teachers to first reflect on our own experiences of the fundamental needs (for self-esteem, relatedness to others, authenticity, and competence); our own internal motivations (for activities that we find enjoyable in themselves, or that support an important personal belief or goal); and our intrinsic goal pursuits (relating to improving oneself, experiencing genuinely close relationships, helping others, or building community). Given the research summarized in this paper, such experiences should be providing us with most of our life satisfaction, and this personal perspective will give us confidence for raising these topics with students. As we then communicate the research findings to students, they become able to make more informed choices about priorities, career directions, and distribution of time during law school and eventual practice. Without deciding the direction any particular student should choose, we have an obligation as the creators of the legal profession to avoid hypocrisy around our institutional service missions and to broaden our message to include at least the scientific research that relates to the health, happiness, and life satisfaction of our students.<sup>56</sup> In addition, we need to remind students regularly that thinking-like-a-lawyer, although a crucial analytical tool, entails a fundamentally negative and dehumanizing worldview. It will have undermining effects if applied generally in life, or in one's career beyond the specific contexts for which it is appropriate.

I will offer some other preliminary observations and suggestions for working with students. Curricular integration is important. Although extracurricular programs, orientation meetings, and such are useful, and may be more easily adaptable for this purpose at first, we should be wary of relying on such venues. Otherwise we perpetuate the institutional message that creating health and well-being in the profession, and in the lives of law students, is not important enough to merit inclusion in the curriculum.

Other teachers and I have experimented with relevant, constructive teaching methods; student feedback and my own observations tell me that results are quite positive.<sup>57</sup> In my classes I inform my students of the research on well-being, values, and motivation; I encourage optimal values; and I promote the regular experience of the fundamental human needs. None of these tasks has been difficult. Once past the initial discomfort of extending the discourse to

56. Griswold deplored the narrowing emphasis of legal education and its stultifying effect on the student spirit:

[T]he thrust of my point is not anti-intellectual. I am trying to say that we should be more truly intellectual, and take into account all relevant factors, including the inadequacy of many of our premises, and the fact that we are often thinking about the wrong things when we are carrying out our intellectual processes.

If we do, we will get more people who deeply care about society and its problems in our student bodies and on our faculties, people who are willing to do something about these problems as well as debate them.

Griswold, *supra* note 46, at 302.

57. Elsewhere I have described earlier approaches that proved effective in my courses and programs. See Krieger, *supra* note 16, at 17–36. That article relies on humanistic theory, which has largely been confirmed by the research on needs and motivation described in this article.

“personal” career and life issues, the great majority of students welcome such messages, and the students are definitely more engaged in learning when teaching methods calculated to provide for basic human needs are employed.

A teacher may approach these matters in a variety of ways in the context of almost any course, using only a few minutes of class or clinic time each week.<sup>58</sup> For example, if your coverage includes practical or ethical aspects of the profession, you may directly raise and discuss the topics of health and career satisfaction, perhaps overviews of the research on lawyers and giving brief reading and writing assignments.<sup>59</sup> You may also integrate into virtually any course, including those purely doctrinal, questions or assignments that require students to relate their personal values, beliefs, instincts, and conscience to the cases or principles being studied. Such exercises broaden the unnecessarily narrow legal education agenda by promoting personal valuing, and they provide experiences of competence, authenticity, and self-worth in students. In addition, the fact that a teacher encourages discussion of the personal qualities, values, or subjective experiences of lawyers and law students is crucial validation for their continued consideration. We effectively communicate to our students that who they are and what they believe matters, regardless of their overt markers of achievement; and by thus expanding the universe of law school discourse, we begin to undercut the self-fulfilling assumption that law study and practice are per se harmful to one’s health and well-being.<sup>60</sup> Collaborative exercises are also useful in diminishing the sense of isolation among students, enhancing their relatedness, and reliably increasing their engagement in the course work. I reemphasize that much thought and collaboration will be required of faculty to develop these and other teaching methods. I offer only first thoughts and a brief overview here.

Beyond working with our students, we need to begin focused, honest dialog among ourselves. Consideration by committees and the general faculty is obviously crucial. It should promote acceptance of the need to address these problems and the appropriateness of doing so, and lead to discussion of directions to be undertaken. Faculty workshops could be instrumental in helping teachers think through methodology while increasing the general level of awareness about these issues. Teachers and administrators interested in the thoughts and experience of involved faculty at other law schools can

58. For an overview of teaching approaches appropriate for a variety of settings, see Laurie A. Morin, *Reflections on Teaching Law as Right Livelihood: Cultivating Ethics, Professionalism, and Commitment to Public Service from the Inside Out*, 35 *Tulsa L.J.* 227 (2000); Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?* 8 *Legal Writing* \_\_\_\_ (forthcoming 2002); Hess, *supra* note 3; Krieger, *supra* note 16.

59. I will be happy to send a brief bibliography of related readings. A related listserv provides an ongoing discussion of teaching approaches; see note 62, *infra*.

60. In a previous article I discuss the stress of law practice and study. Rather than seeking to “manage” stress, an approach that acknowledges the inevitability of high stress in the profession, I describe ways to substantially decrease stress by changing the attitudes that produce it. See Krieger, *supra* note 16, at 8–30. I have since included a control exercise in my classes, to which students constantly refer as a major stress reducer. I am happy to provide this on request.

take part in a dedicated listserv and attend the conferences that its participants organize.<sup>61</sup>

It is not necessary to have answers before we raise the questions and encourage faculty to think about them collectively. Perhaps the initial response will be positive, perhaps not. We should avoid the pessimism of all-or-nothing thinking; institutions by nature change more slowly than individuals.

There are many ways to maintain institutional inertia: waiting for others to conduct more research, focusing on points of disagreement, raising fears of sweeping reforms and unmanageable expenses. But open discussion of important information does not require great cost and, while it will always be useful to conduct more research, all the research to date provides a consistent picture of law student and lawyer distress.<sup>62</sup> Acting within your own sphere of control, by openly raising these issues with colleagues and developing your own teaching style with a view to your students' well-being, you will gain personal satisfaction and make a real contribution to your students, while elevating the overall institutional culture to a more honest and informed dynamic about the health of the profession.

61. The Humanizing Legal Education listserv is well subscribed. To subscribe to the listserv, or for conference or other information, send me an e-mail (lkrieger@law.fsu.edu).

62. For a discussion of the many consistent studies, and of recommended directions for future research, see Sheldon & Krieger, *supra* note 10.